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HOUSE JOINT RESOLUTION 4201

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Williams, Lovick, Priest, Flannigan and Serben

Read first time 01/20/2005. Referred to Committee on Judiciary.

1            BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE  
2 STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

3            THAT, At the next general election to be held in this state the  
4 secretary of state shall submit to the qualified voters of the state  
5 for their approval and ratification, or rejection, an amendment to  
6 Article IV, section 31 of the Constitution of the state of Washington  
7 to read as follows:

8            Article IV, section 31. (1) There shall be a commission on  
9 judicial conduct, existing as an independent agency of the judicial  
10 branch, and consisting of a judge selected by and from the court of  
11 appeals judges, a judge selected by and from the superior court judges,  
12 a judge selected by and from the (~~district~~) limited jurisdiction  
13 court judges, two persons admitted to the practice of law in this state  
14 selected by the state bar association, and six persons who are not  
15 attorneys appointed by the governor.

16            (2) Whenever the commission receives a complaint against a judge or  
17 justice, or otherwise has reason to believe that a judge or justice  
18 should be admonished, reprimanded, censured, suspended, removed, or  
19 retired, the commission shall first investigate the complaint or belief

1 and then conduct initial proceedings for the purpose of determining  
2 whether probable cause exists for conducting a public hearing or  
3 hearings to deal with the complaint or belief. The investigation and  
4 initial proceedings shall be confidential. Upon beginning an initial  
5 proceeding, the commission shall notify the judge or justice of the  
6 existence of and basis for the initial proceeding.

7 (3) Whenever the commission concludes, based on an initial  
8 proceeding, that there is probable cause to believe that a judge or  
9 justice has violated a rule of judicial conduct or that the judge or  
10 justice suffers from a disability which is permanent or likely to  
11 become permanent and which seriously interferes with the performance of  
12 judicial duties, the commission shall conduct a public hearing or  
13 hearings and shall make public all those records of the initial  
14 proceeding that provide the basis for its conclusion. If the  
15 commission concludes that there is not probable cause, it shall notify  
16 the judge or justice of its conclusion.

17 (4) Upon the completion of the hearing or hearings, the commission  
18 in open session shall either dismiss the case, or shall admonish,  
19 reprimand, or censure the judge or justice, or shall censure the judge  
20 or justice and recommend to the supreme court the suspension or removal  
21 of the judge or justice, or shall recommend to the supreme court the  
22 retirement of the judge or justice. The commission may not recommend  
23 suspension or removal unless it censures the judge or justice for the  
24 violation serving as the basis for the recommendation. The commission  
25 may recommend retirement of a judge or justice for a disability which  
26 is permanent or likely to become permanent and which seriously  
27 interferes with the performance of judicial duties.

28 (5) Upon the recommendation of the commission, the supreme court  
29 may suspend, remove, or retire a judge or justice. The office of a  
30 judge or justice retired or removed by the supreme court becomes  
31 vacant, and that person is ineligible for judicial office until  
32 eligibility is reinstated by the supreme court. The salary of a  
33 removed judge or justice shall cease. The supreme court shall specify  
34 the effect upon salary when it suspends a judge or justice. The  
35 supreme court may not suspend, remove, or retire a judge or justice  
36 until the commission, after notice and hearing, recommends that action  
37 be taken, and the supreme court conducts a hearing, after notice, to

1 review commission proceedings and findings against the judge or  
2 justice.

3 (6) Within thirty days after the commission admonishes, reprimands,  
4 or censures a judge or justice, the judge or justice shall have a right  
5 of appeal de novo to the supreme court.

6 (7) Any matter before the commission or supreme court may be  
7 disposed of by a stipulation entered into in a public proceeding. The  
8 stipulation shall be signed by the judge or justice and the commission  
9 or court. The stipulation may impose any terms and conditions deemed  
10 appropriate by the commission or court. A stipulation shall set forth  
11 all material facts relating to the proceeding and the conduct of the  
12 judge or justice.

13 (8) Whenever the commission adopts a recommendation that a judge or  
14 justice be removed, the judge or justice shall be suspended  
15 immediately, with salary, from his or her judicial position until a  
16 final determination is made by the supreme court.

17 (9) The legislature shall provide for commissioners' terms of  
18 office and compensation. The commission shall employ one or more  
19 investigative officers with appropriate professional training and  
20 experience. The investigative officers of the commission shall report  
21 directly to the commission. The commission shall also employ such  
22 administrative or other staff as are necessary to manage the affairs of  
23 the commission.

24 (10) The commission shall, to the extent that compliance does not  
25 conflict with this section, comply with laws of general applicability  
26 to state agencies with respect to rule-making procedures, and with  
27 respect to public notice of and attendance at commission proceedings  
28 other than initial proceedings. The commission shall establish rules  
29 of procedure for commission proceedings including due process and  
30 confidentiality of proceedings.

31 BE IT FURTHER RESOLVED, That the secretary of state shall cause  
32 notice of this constitutional amendment to be published at least four  
33 times during the four weeks next preceding the election in every legal  
34 newspaper in the state.

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